Environmental Whistleblower Protections

What do you do when a worker raises concerns about alleged environmental violations committed by the company’ Showing disloyalty to one□s employer is generally grounds for discipline and maybe even termination. But in some jurisdictions, environmental law bars employers from disciplining or taking other retaliatory actions against workers who engage in □whistleblowing,□ such as reporting environmental offences by the company to government officials. And the federal criminal law, which applies across Canada, also contains protections for environmental whistleblowers. Here□s a chart of protections provided to environmental whistleblowers under the federal *Criminal Code* and the primary environmental law in each jurisdiction

WHISTLEBLOWER PROTECTIONS UNDER THE PRIMARY
ENVIRONMENTAL LAW IN EACH JURISDICTION

FED	*Criminal Code*: No employer or person acting on behalf of an employer or in a position of authority with respect to an employee of the employer shall take a disciplinary measure against, demote, terminate or otherwise adversely affect the employment of such employee or threaten to do so with the intent to: 1) compel the employee to abstain from providing information to a person whose duties include the enforcement of federal or provincial law as to an offence that the employee believes has been or is being committed contrary to any federal or provincial Act or regulation by the employer, an officer or employee of the employer or, if the employer□s a corporation, one or more of its directors; or 2) retaliate against the employee because the employee has provided information referred to above to a person whose duties include the enforcement of federal or provincial law [Sec. 425.1(1)]. *CEPA*: 1) No employer may dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee, or deny an employee a benefit of employment, because that employee: a) made a voluntary report under Sec. 16(1) about the commission of an offence under this Act; b) acting in good faith and on the basis of reasonable belief, has refused or stated an intention of refusing to do anything that□s an offence under this Act; or c) acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing anything that□s required to be done by or under this Act [Sec. 16(4)]. 2) No employer may dismiss, suspend, demote, discipline, harass or otherwise disadvantage an employee, or deny an employee a benefit of employment, because that employee: a) made a voluntary report under Sec. 202(1) regarding an environmental emergency; b) acting in good faith and on the basis of reasonable belief, has refused or stated an intention of refusing to do anything that□s an offence under this Act; or c) acting in good faith and on the basis of reasonable belief, has done or stated an intention of doing anything that□s required to be done by or under this Act [Sec. 202(4)].
AB	Environmental laws don□t provide specific protection for environmental whistleblowers.
BC	Environmental laws don□t provide specific protection for environmental whistleblowers.
MB	Environmental laws don□t provide specific protection for environmental whistleblowers.
NB	Environmental laws don□t provide specific protection for environmental whistleblowers.

NL	*Environmental Protection Act*: An employer may not: 1) dismiss or threaten to dismiss; 2) discipline or suspend; 3) impose a penalty upon; or 4) intimidate or coerce an employee who refuses to carry out an action that□s contrary to this Act, or because the employee has reported or proposes to report to a person an act or omission that violates, or that the employee has reasonable grounds to believe may violate, this Act or a term or condition of an approval, varied approval, licence or undertaking exempted or released under this Act [Sec. 97(1)].
NT/ NU	*Environmental Rights Act*: No person shall dismiss or threaten to dismiss an employee, discipline, suspend or impose any penalty on an employee or intimidate or coerce an employee because he or she has: 1) reported or proposes to report to the appropriate authority any release or any likely release of a contaminant into the environment; 2) made or proposes to make an application under Sec. 4(2) for an investigation into the release of a contaminant into the environment; 3) commenced or proposes to commence to prosecute an offence under Sec. 5(1) for violation of designated laws; or 4) commenced or proposes to commence an action under Sec. 6(1) in Supreme Court against any person for releasing any contaminant into the environment [Sec. 7(1)].
NS	*Environment Act*: No employer may: 1) dismiss or threaten to dismiss; 2) discipline or suspend; 3) impose a penalty on; or 4) intimidate or coerce an employee because the employee has reported or proposes to report to any person an act or omission that violates or that the employee has reasonable grounds to believe may violate this Act [Sec. 124(1)].

ON	*Environmental Bill of Rights, 1993*: 1) An employer has taken reprisals on a prohibited ground if the employer has taken reprisals because the employee in good faith did or may do any of the following: a) participate in decision-making about a ministry statement of environmental values, policy, Act, regulation or instrument as provided in Part II; b) apply for a review under Part IV of an existing Ontario policy, Act, regulation or instrument the employee believes should be amended, repealed or revoked to protect the environment; c) apply for an investigation under Part V of an alleged violation of a prescribed Act, regulation or instrument; d) comply with or seek the enforcement of a prescribed Act, regulation or instrument; e) give information to an appropriate authority for the purposes of an investigation, review or hearing related to a prescribed policy, Act, regulation or instrument; or f) give evidence in a proceeding under this Act or under a prescribed Act [Sec. 105(3)]. 2) An employer has taken reprisals against an employee if the employer has dismissed, disciplined, penalized, coerced, intimidated or harassed, or attempted to coerce, intimidate or harass, the employee [Sec. 105(2)]. *Environmental Protection Act*: No employer may dismiss, discipline, penalize, coerce, intimidate or attempt to coerce or intimidate an employee: 1) because the employee has complied or may comply with: a) the *Environmental Assessment Act*; b) the *Environmental Protection Act*; c) the *Fisheries Act* (Canada); d) the *Nutrient Management Act, 2002*; e) the *Ontario Water Resources Act*; f) the *Pesticides Act*; g) the *Safe Drinking Water Act, 2002*; h) the *Toxics Reduction Act, 2009;* i) a regulation under one of the above Acts; or j) an order, term or condition, environmental compliance approval, certificate of property use, renewable energy approval, licence, permit or direction under one of the above Acts; or 2) because the employee: a) has sought or may seek the enforcement of one of the above Acts or a regulation under one of the Acts; b) has given or may give information to the Ministry or a provincial officer; or c) has been or may be called upon to testify in a proceeding related to one of the above Acts or a regulation under one of the Act [Sec. 174(2)].
PE	Environmental laws don□t provide specific protection for environmental whistleblowers.
QC	Environmental laws don□t provide specific protection for environmental whistleblowers.
SK	Environmental laws don□t provide specific protection for environmental whistleblowers.

YT	*Environment Act*: No employer may dismiss or threaten to dismiss, discipline, impose any penalty on, commence or prosecute any legal action against, intimidate or coerce an employee because the employee, for the purpose of protecting the natural environment or the public trust in relation to the natural environment from material impairment: 1) reports or proposes to report to the appropriate authority any adverse effect or likely adverse effect; 2) commences or proposes to commence an action under Sec. 8(1) regarding impairment of the natural environment; 3) makes or proposes to make an application for an investigation under Sec. 14 into impairment of the natural environment; 4) prosecutes or proposes to prosecute an offence pursuant to Sec. 19; 5) makes or proposes to make a complaint under Sec. 21 about a decision, recommendation or omission of an authority having or exercising power or authority under this Act or a schedule 1 enactment; 6) lays an information or proposes to lay an information under Sec. 181 as to any offence under this Act or the regulations; or 7) refuses to carry out an order or direction of the employer that would constitute a contravention of this Act, the regulations or a term or condition of a permit or order [Sec. 20(2)].